

AN ACT concerning criminal law.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Drug Court Treatment Act is amended by changing Sections 5, 10, 15, 20, 25, 30, 35, 40, 45, and 50 as follows:

(730 ILCS 166/5)

Sec. 5. Purposes. The General Assembly recognizes that individuals struggling with substance use disorders may come into contact with the criminal justice system and be charged with felony or misdemeanor offenses. The General Assembly also recognizes that substance use disorders and mental illness co-occur in a substantial percentage of criminal defendants ~~the use and abuse of drugs has a dramatic effect on the criminal justice system in the State of Illinois.~~ There is a critical need for the ~~a~~ criminal justice system to recognize individuals struggling with these issues, provide alternatives to incarceration to address substance use disorders when possible, and provide appropriate access to treatment and support to such individuals ~~program that will reduce the incidence of drug use, drug addiction, and crimes committed as a result of drug use and drug addiction.~~ It is the intent of the General Assembly to create specialized drug courts, in

accordance with evidence-based practices and the Illinois Supreme Court Problem-Solving Court Standards for addressing substance use and co-occurring disorders, with the necessary flexibility to meet the needs for an array of services and supports among participants in certified drug court programs ~~the drug problems~~ in the State of Illinois.

(Source: P.A. 92-58, eff. 1-1-02.)

(730 ILCS 166/10)

Sec. 10. Definitions. As used in this Act:

"Certification" means the process by which a problem-solving court obtains approval from the Supreme Court to operate in accordance with the Problem-Solving Court Standards.

"Clinical treatment plan" means an evidence-based, comprehensive, and individualized plan that: (i) is developed by a qualified professional in accordance with the Department of Human Services substance use prevention and recovery rules under 77 Ill. Adm. Code 2060 or an equivalent standard in any state where treatment may take place; and (ii) defines the scope of treatment services to be delivered by a court treatment provider.

"Combination drug court program" means a type of problem-solving court that allows an individual to enter a problem-solving court before a plea, conviction, or disposition while also permitting an individual who has

admitted guilt, or been found guilty, to enter a problem-solving court as a part of the individual's sentence or disposition.

"Community behavioral health center" means a physical site where behavioral healthcare services are provided in accordance with the Community Behavioral Health Center Infrastructure Act.

"Community mental health center" means an entity:

(1) licensed by the Department of Public Health as a community mental health center in accordance with the conditions of participation for community mental health centers established by the Centers for Medicare and Medicaid Services; and

(2) that provides outpatient services, including specialized outpatient services, for individuals who are chronically mental ill.

"Co-occurring mental health and substance use disorders court program" means a program that includes an individual with co-occurring mental illness and substance use disorder diagnoses and professionals with training and experience in treating individuals with diagnoses of substance use disorder and mental illness.

"Drug court", "drug court program", "court", or "program" means a specially designated court, court calendar, or docket facilitating intensive therapeutic treatment to monitor and assist participants with substance use disorders in making

positive lifestyle changes and reducing the rate of recidivism. Drug court programs are nonadversarial in nature and bring together substance use disorder professionals, local social programs, and monitoring in accordance with the nationally recommended 10 key components of drug courts and the Problem-Solving Court Standards. Common features of a drug court program include, but are not limited to, a designated judge and staff; specialized intake and screening procedures; coordinated treatment procedures administered by a trained, multidisciplinary professional team; close evaluation of participants, including continued assessments and modification of the court requirements and use of sanctions, incentives, and therapeutic adjustments to address behavior; frequent judicial interaction with participants; less formal court process and procedures; voluntary participation; and a low treatment staff-to-client ratio. ~~an immediate and highly structured judicial intervention process for substance abuse treatment of eligible defendants that brings together substance abuse professionals, local social programs, and intensive judicial monitoring in accordance with the nationally recommended 10 key components of drug courts.~~

"Drug court professional" means a member of the drug court team, including but not limited to a judge, prosecutor, defense attorney, probation officer, coordinator, or treatment provider, ~~or peer recovery coach.~~

"Peer recovery coach" means a mentor assigned to a

defendant during participation in a drug treatment court program who has been trained by the court, a service provider used by the court for substance use disorder or mental health treatment, a local service provider with an established peer recovery coach or mentor program not otherwise used by the court for treatment, or a Certified Recovery Support Specialist certified by the Illinois Certification Board. "Peer recovery coach" includes individuals with lived experiences of the issues the problem-solving court seeks to address, including, but not limited to, substance use disorder, mental illness, and co-occurring disorders or involvement with the criminal justice system. "Peer recovery coach" includes individuals required to guide and mentor the participant to successfully complete assigned requirements and to facilitate participants' independence for continued success once the supports of the court are no longer available to them.

"Post-adjudicatory drug court program" means a program that allows an individual who has admitted guilt or has been found guilty, with the defendant's consent, and the approval of the court, to enter a drug court program as part of the defendant's sentence or disposition.

"Pre-adjudicatory drug court program" means a program that allows the defendant, with the defendant's consent and the approval of the court, to enter the drug court program before plea, conviction, or disposition and requires successful completion of the drug court program as part of the agreement.

"Problem-Solving Court Standards" means the statewide standards adopted by the Supreme Court that set forth the minimum requirements for the planning, establishment, certification, operation, and evaluation of all problem-solving courts in this State.

"Validated clinical assessment" means a validated assessment tool administered by a qualified clinician to determine the treatment needs of participants. "Validated clinical assessment" includes assessment tools required by public or private insurance.

~~"Pre-adjudicatory drug court program" means a program that allows the defendant, with the consent of the prosecution, to expedite the defendant's criminal case before conviction or before filing of a criminal case and requires successful completion of the drug court program as part of the agreement.~~

~~"Post-adjudicatory drug court program" means a program in which the defendant has admitted guilt or has been found guilty and agrees, along with the prosecution, to enter a drug court program as part of the defendant's sentence.~~

~~"Combination drug court program" means a drug court program that includes a pre-adjudicatory drug court program and a post-adjudicatory drug court program.~~

(Source: P.A. 97-946, eff. 8-13-12.)

(730 ILCS 166/15)

Sec. 15. Authorization.

(a) The Chief Judge of each judicial circuit ~~may~~ must establish a drug court program in compliance with the Problem-Solving Court Standards. At the discretion of the Chief Judge, the drug court program may be operated in one or more counties of the circuit and allow defendants from all counties within the circuit to participate. Drug court programs must be certified by the Illinois Supreme Court including the format under which it operates under this Act.

(b) Whenever the county boards of 2 or more counties within the same judicial circuit ~~shall~~ determine that a single drug court program would best serve those counties, the county board of each such county may ~~shall~~ adopt a resolution to the effect that there shall be a single drug court program serving those counties, and shall provide a copy of the resolution to the Chief Judge of the judicial circuit. Upon receipt of such a resolution, ~~those resolutions~~, the Chief Judge may ~~shall~~ establish or, in the case of an existing drug court program, reorganize ~~re-organize~~ a single drug court program to serve those counties.

(c) (Blank). ~~Upon petition of the county board by the State's Attorney, the court may, for good cause shown of financial hardship or lack of necessary resources, enter an order delaying the implementation of the requirements of subsection (a) of this Section for an individual county, for a period not to exceed 2 years.~~

(Source: P.A. 96-776, eff. 1-1-10.)

(730 ILCS 166/20)

Sec. 20. Eligibility.

(a) A defendant may be admitted into a drug court program only upon the consent ~~agreement~~ of the defendant and with the approval of the court. A defendant agrees to be admitted when a written consent to participate is provided to the court in open court and the defendant acknowledges understanding its contents.

(a-5) Each drug court shall have a target population defined in its written policies and procedures. The policies and procedures shall define that court's eligibility and exclusionary criteria.

(b) A defendant shall be excluded from a drug court program if any ~~of~~ one of the following applies ~~apply~~:

(1) The crime is a crime of violence as set forth in paragraph ~~clause~~ (4) of this subsection (b).

(2) The defendant denies his or her use of or addiction to drugs.

(3) The defendant does not demonstrate a willingness to participate in a treatment program.

(4) The defendant has been convicted of a crime of violence within the past 5 ~~10~~ years excluding incarceration time, parole, and periods of mandatory supervised release. As used in this paragraph ~~Section~~, "crime of violence" means: first degree murder, second

degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, armed robbery, aggravated arson, arson, aggravated kidnaping, kidnapping ~~kidnaping~~, aggravated battery resulting in great bodily harm or permanent disability, aggravated domestic battery resulting in great bodily harm or permanent disability, aggravated criminal sexual abuse by a person in a position of trust or authority over a child, stalking, aggravated stalking, home invasion, aggravated vehicular hijacking, or any offense involving the discharge of a firearm.

(5) The defendant is charged with a violation of subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code in which an individual is charged with aggravated driving under the influence that resulted in the death of another person or when the violation was a proximate cause of the death, unless, pursuant to subparagraph (G) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code, the court determines that extraordinary circumstances exist and require probation.

(c) Notwithstanding subsection (a), the defendant may be admitted into a drug court program only upon the agreement of the prosecutor if the defendant is charged with a Class 2 or greater felony violation of:

(1) Section 401, 401.1, 405, or 405.2 of the Illinois

Controlled Substances Act;

(2) Section 5, 5.1, or 5.2 of the Cannabis Control Act; or

(3) Section 15, 20, 25, 30, 35, 40, 45, 50, 55, 56, or 65 of the Methamphetamine Control and Community Protection Act.

~~the defendant is charged with a Class 2 or greater felony violation of:~~

~~(A) Section 401, 401.1, 405, or 405.2 of the Illinois Controlled Substances Act;~~

~~(B) Section 5, 5.1, or 5.2 of the Cannabis Control Act;~~

~~(C) Section 15, 20, 25, 30, 35, 40, 45, 50, 55, 56, or 65 of the Methamphetamine Control and Community Protection Act; or~~

~~(2) the defendant has previously, on 3 or more occasions, either completed a drug court program, been discharged from a drug court program, or been terminated from a drug court program.~~

(Source: P.A. 99-480, eff. 9-9-15.)

(730 ILCS 166/25)

Sec. 25. Procedure.

(a) A ~~The court shall order an eligibility screening and clinical needs~~ ~~an~~ assessment and risk assessment of the defendant shall be performed as required by the court's

policies and procedures prior to the defendant's admission into a drug court. The clinical needs assessment shall be conducted in accordance with the Department of Human Services substance use prevention and recovery rules under 77 Ill. Adm. Code 2060. The assessment shall include, but is not limited to, assessments of substance use and mental and behavioral health needs. The assessment shall be administered by individuals approved under the Department of Human Services substance use prevention and recovery rules for professional staff under 77 Ill. Adm. Code 2060 and used to inform any clinical treatment plans. Clinical treatment plans shall be developed in accordance with the Problem-Solving Court Standards and in part upon the known availability of treatment resources.

Any risk assessment shall be performed using an assessment tool approved by the Administrative Office of the Illinois Courts and as required by the court's policies and procedures.  
~~by an agent designated by the State of Illinois to provide assessment services for the Illinois Courts.~~

An assessment need not be ordered if the court finds a valid assessment related to the present charge pending against the defendant has been completed within the previous 60 days.

(b) The judge shall inform the defendant that if the defendant fails to meet the conditions of the drug court program, eligibility to participate in the program may be revoked and the defendant may be sentenced or the prosecution

continued as provided in the Unified Code of Corrections for the crime charged.

(c) The defendant shall execute a written agreement as to his or her participation in the program and shall agree to all of the terms and conditions of the program, including but not limited to the possibility of sanctions or incarceration for failing to abide or comply with the terms of the program.

(d) In addition to any conditions authorized under the Pretrial Services Act and Section 5-6-3 of the Unified Code of Corrections, the court may order the participant to complete mental health counseling or substance use disorder treatment in an outpatient or residential treatment program and may order the participant to comply with physicians' recommendations regarding medications and all follow-up treatment for any mental health diagnosis made by the provider. Substance use disorder treatment programs must be licensed by the Department of Human Services in accordance with the Department of Human Services substance use prevention and recovery rules, or an equivalent standard in any other state where the treatment may take place, and use evidence-based treatment. When referring participants to mental health treatment programs, the court shall prioritize providers certified as community mental health or behavioral health centers if possible. The court shall consider the least restrictive treatment option when ordering mental health or substance use disorder treatment for participants and the

results of clinical and risk assessments in accordance with the Problem-Solving Court Standards. ~~defendant to complete substance abuse treatment in an outpatient, inpatient, residential, or jail-based custodial treatment program. Any period of time a defendant shall serve in a jail-based treatment program may not be reduced by the accumulation of good time or other credits and may be for a period of up to 120 days.~~

(e) The drug court program shall include a regimen of graduated requirements, including ~~and rewards and sanctions, including but not limited to:~~ fines, fees, costs, restitution, ~~incarceration of up to 180 days,~~ individual and group therapy, substance ~~drug~~ analysis testing, close monitoring by the court, restitution, ~~at a minimum of once every 30 days and supervision of progress,~~ educational or vocational counseling as appropriate, and other requirements necessary to fulfill the drug court program. Program phases, therapeutic adjustments, incentives, and sanctions, including the use of jail sanctions, shall be administered in accordance with evidence-based practices and the Problem-Solving Court Standards. A participant's failure to pay program fines or fees shall not prevent the participant from advancing phases or successfully completing the program. If the participant ~~defendant~~ needs treatment for an opioid use disorder ~~abuse~~ or dependence, the court may not prohibit the participant ~~defendant~~ from ~~participating in~~ and receiving

medication-assisted ~~medication-assisted~~ treatment under the care of a physician licensed in this State to practice medicine in all of its branches. Drug court participants may not be required to refrain from using medication-assisted ~~medication-assisted~~ treatment as a term or condition of successful completion of the drug court program.

(f) Recognizing that individuals struggling with mental health, substance use, and related co-occurring disorders have often experienced trauma, drug court programs may include specialized service programs specifically designed to address trauma. These specialized services may be offered to individuals admitted to the drug court program. Judicial circuits establishing these specialized programs shall partner with advocates, survivors, and service providers in the development of the programs. Trauma-informed services and programming shall be operated in accordance with evidence-based best practices as outlined by the Substance Abuse and Mental Health Service Administration's National Center for Trauma-Informed Care.

(g) The court may establish a mentorship program that provides access and support to program participants by peer recovery coaches. Courts shall be responsible to administer the mentorship program with the support of mentors and local mental health and substance use disorder treatment organizations.

(Source: P.A. 99-554, eff. 1-1-17.)

(730 ILCS 166/30)

Sec. 30. Mental health and substance use disorder  
~~Substance abuse~~ treatment.

(a) The drug court program shall maintain a network of substance use disorder ~~abuse~~ treatment programs representing a continuum of graduated substance use disorder ~~abuse~~ treatment options commensurate with the needs of the participant ~~defendants~~.

(b) Any substance use disorder ~~abuse~~ treatment program to which participants ~~defendants~~ are referred must hold a valid license from the Department of Human Services Division of Substance Use Prevention and Recovery, use evidence-based treatment, and deliver all services in accordance with 77 Ill. Adm. Code 2060, including services available through the United States Department of Veterans Affairs, the Illinois Department of Veterans' Affairs, or Veterans Assistance Commission, or an equivalent standard in any other state where treatment may take place ~~meet all of the rules and governing programs in Parts 2030 and 2060 of Title 77 of the Illinois Administrative Code.~~

(c) The drug court program may, at its discretion, employ additional services or interventions, as it deems necessary on a case by case basis.

(d) The drug court program may maintain or collaborate with a network of mental health treatment programs

representing a continuum of treatment options commensurate with the needs of the participant and available resources, including programs with the State and community-based programs supported and sanctioned by the State. Partnerships with providers certified as mental health or behavioral health centers shall be prioritized when possible.

(Source: P.A. 92-58, eff. 1-1-02.)

(730 ILCS 166/35)

Sec. 35. Violation; termination; dismissal from program discharge.

(a) If the court finds from the evidence presented, including, but not limited to, the reports or proffers of proof from the drug court professionals, that: (1) the participant is not complying with the requirements of the treatment program; or (2) the participant has otherwise violated the terms and conditions of the program, the court may impose reasonable sanctions under the prior written agreement of the participant, including, but not limited to, imprisonment or dismissal of the participant from the program, and the court may reinstate criminal proceedings against the participant or proceed under Section 5-6-4 of the Unified Code of Corrections for a violation of probation, conditional discharge, or supervision hearing. If the court finds from the evidence presented including but not limited to the reports or proffers of proof from the drug court professionals that:

~~(1) the defendant is not performing satisfactorily in the assigned program;~~  
~~(2) the defendant is not benefitting from education, treatment, or rehabilitation;~~  
~~(3) the defendant has engaged in criminal conduct rendering him or her unsuitable for the program; or~~  
~~(4) the defendant has otherwise violated the terms and conditions of the program or his or her sentence or is for any reason unable to participate;~~  
~~the court may impose reasonable sanctions under prior written agreement of the defendant, including but not limited to imprisonment or dismissal of the defendant from the program and the court may reinstate criminal proceedings against him or her or proceed under Section 5-6-4 of the Unified Code of Corrections for a violation of probation, conditional discharge, or supervision hearing.~~

(a-5) Based on the evidence presented, the court shall determine whether the participant has violated the conditions of the program and whether the participant should be dismissed from the program or whether, pursuant to the court's policies and procedures, some other alternative may be appropriate in the interests of the participant and the public.

(a-10) A participant ~~defendant~~ who is assigned to a substance use disorder ~~abuse~~ treatment program under this Act for an opioid use disorder ~~abuse or dependence~~ is not in violation of the terms or conditions of the program on the

basis of ~~his or her~~ participation in medication-assisted ~~medication-assisted~~ treatment under the care of a physician licensed in this State to practice medicine in all of its branches.

(a-15) A participant may voluntarily withdraw from the drug court program in accordance with the drug court program's policies and procedures. Prior to allowing the participant to withdraw, the judge shall:

(1) ensure that the participant has the right to consult with counsel prior to withdrawal;

(2) determine in open court that the withdrawal is made voluntarily and knowingly; and

(3) admonish the participant in open court as to the consequences, actual or potential, which can result from withdrawal.

Upon withdrawal, the criminal proceedings may be reinstated against the participant or proceedings may be initiated under Section 5-6-4 of the Unified Code of Corrections for a violation of probation, conditional discharge, or supervision hearing.

(a-20) No participant may be dismissed from the program unless, prior to dismissal, the participant is informed in writing:

(1) of the reason or reasons for the dismissal;

(2) the evidentiary basis supporting the reason or reasons for the dismissal; and

(3) that the participant has a right to a hearing at which the participant may present evidence supporting the participant's continuation in the program.

(a-25) A participant who has not violated the conditions of the program in such a way as to warrant unsuccessful dismissal, but who is unable to complete program requirements to qualify for a successful discharge, may be terminated from the program as a neutral discharge.

(b) Upon successful completion of the terms and conditions of the program, the court may dismiss the original charges against the participant ~~defendant~~ or successfully terminate the participant's ~~defendant's~~ sentence or otherwise discharge the participant ~~him or her~~ from any further proceedings against the participant ~~him or her~~ in the original prosecution.

(c) Upon successful completion of the terms and conditions of the program, any State's Attorney in the county of conviction, participant, or defense attorney may move to vacate any convictions that are eligible for sealing under the Criminal Identification Act. A participant may immediately file a petition to expunge vacated convictions and the associated underlying records per the Criminal Identification Act. If the State's Attorney moves to vacate a conviction, the State's Attorney may not object to expungement of that conviction or the underlying record.

(d) The drug court program may maintain or collaborate

with a network of legal aid organizations that specialize in conviction relief to support participants navigating the expungement and sealing process.

(Source: P.A. 99-554, eff. 1-1-17.)

(730 ILCS 166/40)

Sec. 40. Education ~~seminars~~ for judges. A judge assigned to preside over a drug treatment court shall have experience, training, and continuing education in topics including, but not limited to:

(1) criminal law;

(2) behavioral health;

(3) confidentiality;

(4) ethics;

(5) evidence-based practices;

(6) substance use disorders;

(7) mental illness;

(8) co-occurring disorders; and

(9) presiding over various types of problem-solving courts. ~~The Administrative Office of the Illinois Courts shall conduct education seminars for judges throughout the State on how to operate drug court programs with a specific emphasis on cases involving the illegal possession of methamphetamine.~~

(Source: P.A. 94-552, eff. 8-12-05.)

(730 ILCS 166/45)

Sec. 45. Education seminars for drug court prosecutors. Subject to appropriation, the Office of the State's Attorneys Appellate Prosecutor shall conduct mandatory education seminars ~~on the subjects of substance abuse and addiction~~ for all drug court prosecutors throughout the State to ensure that the problem-solving court maintains fidelity to the problem-solving court model. Topics include, but are not limited to, evidence-based screening, assessment and treatment practices, target population, substance use disorders, mental illness, disability, co-occurring disorders, trauma, confidentiality, criminogenic risks and needs, incentives and sanctions, court processes, limited English proficiency, and team dynamics.

(Source: P.A. 99-480, eff. 9-9-15.)

(730 ILCS 166/50)

Sec. 50. Education seminars for drug court public defenders. Subject to appropriation, the Office of the State Appellate Defender shall conduct mandatory education seminars ~~on the subjects of substance abuse and addiction~~ for all drug court public defenders and assistant public defenders practicing in drug courts throughout the State to ensure that the problem-solving court maintains fidelity to the problem-solving court model. Topics include, but are not limited to, evidence-based screening, assessment and treatment practices, target population, substance use disorders, mental

illness, disability, co-occurring disorders, trauma, confidentiality, criminogenic risks and needs, incentives and sanctions, court processes, limited English proficiency, and team dynamics.

(Source: P.A. 99-480, eff. 9-9-15.)

Section 10. The Veterans and Servicemembers Court Treatment Act is amended by changing Sections 5, 10, 15, 20, 25, 30, and 35 and by adding Sections 40, 45, and 50 as follows:

(730 ILCS 167/5)

Sec. 5. Purposes. The General Assembly recognizes that veterans and active servicemembers, including Reserve and National Guard servicemembers, have provided or are currently providing an invaluable service to our country. Some veterans and active duty servicemembers ~~In so doing, some~~ may suffer from the effects of their service, including, but not limited to, post-traumatic ~~post-traumatic~~ stress disorder, traumatic brain injury, depression and may also suffer ~~drug and alcohol dependency or addiction and~~ co-occurring mental illness and substance use disorder ~~abuse~~ problems. As a result ~~of this~~, some veterans or active duty servicemembers come into contact with the criminal justice system and are charged with felony or misdemeanor offenses. There is a critical need for the criminal justice system to recognize ~~these~~ veterans, provide

accountability for their wrongdoing, provide for the safety of the public, and provide for the treatment of such ~~our~~ veterans. It is the intent of the General Assembly to create specialized veteran and servicemember courts in accordance with evidence-based practices and Problem-Solving Court Standards for addressing substance use, mental health, and co-occurring disorders ~~or programs~~ with the necessary flexibility to meet the specialized needs for an array of services and supports among participants in certified veteran and servicemember court programs in the State ~~problems faced by these veteran and servicemember defendants.~~

(Source: P.A. 96-924, eff. 6-14-10.)

(730 ILCS 167/10)

Sec. 10. Definitions. In this Act:

"Certification" means the process by which a problem-solving court obtains approval from the Supreme Court to operate in accordance with the Problem-Solving Court Standards.

"Clinical treatment plan" means an evidence-based, comprehensive, and individualized plan that: (i) is developed by a qualified professional in accordance with the Department of Human Services substance use prevention and recovery rules under 77 Ill. Adm. Code 2060 or an equivalent standard in any state where treatment may take place; and (ii) defines the scope of treatment services to be delivered by a court

treatment provider.

"Combination Veterans and Servicemembers court program" means a type of problem-solving court that allows an individual to enter a problem-solving court before a plea, conviction, or disposition while also permitting an individual who has admitted guilt, or been found guilty, to enter a problem-solving court as a part of the individual's sentence or disposition. ~~"Combination Veterans and Servicemembers Court program" means a court program that includes a pre adjudicatory and a post adjudicatory Veterans and Servicemembers court program.~~

"Community behavioral health center" means a physical site where behavioral healthcare services are provided in accordance with the Community Behavioral Health Center Infrastructure Act.

"Community mental health center" means an entity:

(1) licensed by the Department of Public Health as a community mental health center in accordance with the conditions of participation for community mental health centers established by the Centers for Medicare and Medicaid Services; and

(2) that provides outpatient services, including specialized outpatient services, for individuals who are chronically mental ill.

"Co-occurring mental health and substance use disorders court program" means a program that includes an individual

with co-occurring mental illness and substance use disorder diagnoses and professionals with training and experience in treating individuals with diagnoses of substance use disorder and mental illness.

"Court" means veterans and servicemembers court ~~Veterans and Servicemembers Court~~.

"IDVA" means the Illinois Department of Veterans' Affairs.

"Peer recovery coach" means a ~~volunteer~~ veteran mentor as defined nationally by Justice for Vets and assigned to a veteran or servicemember during participation in a veteran treatment court program who has been approved by the court, and trained according to curriculum recommended by Justice for Vets, a service provider used by the court for substance use disorder or mental health treatment, a local service provider with an established peer recovery coach or mentor program not otherwise used by the court for treatment, or a Certified Recovery Support Specialist certified by the Illinois Certification Board. "Peer recovery coach" includes individuals with lived experiences of the issues the problem-solving court seeks to address, including, but not limited to, substance use disorder, mental illness, and co-occurring disorders or involvement with the criminal justice system. "Peer recovery coach" includes individuals required to guide and mentor the participant to successfully complete assigned requirements and to facilitate participants' independence for continued success once the supports of the

~~court are no longer available to them. and certified by the court to guide and mentor the participant to successfully complete the assigned requirements.~~

"Post-adjudicatory veterans and servicemembers court program ~~Veterans and Servicemembers Court Program~~" means a program that allows a defendant who ~~in which the defendant~~ has admitted guilt or has been found guilty and agrees, with the defendant's consent, and the approval of the court, ~~along with the prosecution,~~ to enter a veterans and servicemembers court ~~Veterans and Servicemembers Court~~ program as part of the defendant's sentence or disposition.

"Pre-adjudicatory veterans and servicemembers court program ~~Veterans and Servicemembers Court Program~~" means a program that allows the defendant, with the defendant's consent and the approval of the court, ~~to enter the Veterans and Servicemembers Court program before plea, conviction, or disposition~~ with the consent of the prosecution, ~~to expedite the defendant's criminal case before conviction or before filing of a criminal case~~ and requires successful completion of the Veterans and Servicemembers Court programs as part of the agreement.

"Problem-Solving Court Standards" means the statewide standards adopted by the Supreme Court that set forth the minimum requirements for the planning, establishment, certification, operation, and evaluation of all problem-solving courts in this State.

"Servicemember" means a person who is currently serving in the Army, Air Force, Marines, Navy, or Coast Guard on active duty, reserve status or in the National Guard.

"VA" means the United States Department of Veterans' Affairs.

"VAC" means a veterans assistance commission.

"Validated clinical assessment" means a validated assessment tool administered by a qualified clinician to determine the treatment needs of participants. "Validated clinical assessment" includes assessment tools required by public or private insurance.

"Veteran" means a person who previously served as an ~~in~~ the active servicemember ~~military, naval, or air service and who was discharged or released therefrom under conditions other than dishonorable.~~

"Veterans and servicemembers court ~~Servicemembers Court~~ professional" means a member of the veterans and servicemembers court ~~Veterans and Servicemembers Court~~ team, including, but not limited to, a judge, prosecutor, defense attorney, probation officer, coordinator, treatment provider, ~~or peer recovery coach.~~

"Veterans and servicemembers court", "veterans and servicemembers court program", "court", or "program" means a specially designated court, court calendar, or docket facilitating intensive therapeutic treatment to monitor and assist veteran or servicemember participants with substance

use disorder, mental illness, co-occurring disorders, or other assessed treatment needs of eligible veteran and servicemember participants and in making positive lifestyle changes and reducing the rate of recidivism. Veterans and servicemembers court programs are nonadversarial in nature and bring Servicemembers Court" means a court or program with an immediate and highly structured judicial intervention process for substance abuse treatment, mental health, or other assessed treatment needs of eligible veteran and servicemember defendants that brings together substance use disorder abuse professionals, mental health professionals, VA professionals, local social programs, and intensive judicial monitoring in accordance with the nationally recommended 10 key components of veterans treatment courts and the Problem-Solving Court Standards. Common features of a veterans and servicemembers court program include, but are not limited to, a designated judge and staff; specialized intake and screening procedures; coordinated treatment procedures administered by a trained, multidisciplinary professional team; close evaluation of participants, including continued assessments and modification of the court requirements and use of sanctions, incentives, and therapeutic adjustments to address behavior; frequent judicial interaction with participants; less formal court process and procedures; voluntary participation; and a low treatment staff-to-client ratio drug courts.

(Source: P.A. 99-314, eff. 8-7-15; 99-819, eff. 8-15-16.)

(730 ILCS 167/15)

Sec. 15. Authorization.

(a) The Chief Judge of each judicial circuit may ~~shall~~ establish a veterans ~~Veterans~~ and servicemembers court ~~Servicemembers—Court~~ program in compliance with the Problem-Solving Court Standards ~~including a format under which it operates under this Act.~~ The veterans ~~Veterans~~ and servicemembers court ~~Servicemembers—Court~~ may, at the discretion of the Chief Judge, be a separate court or a program of a problem-solving court, including, but not limited to, a drug court, ~~or~~ mental health court, or a court for individuals with either substance use, mental health, or co-occurring disorders. At the discretion of the Chief Judge, the Veterans and Servicemembers Court program may be operated in one or more counties in the Circuit, and allow veteran and servicemember defendants from all counties within the Circuit to participate.

(b) Whenever the county boards of 2 or more counties within the same judicial circuit determine that a single veteran and servicemembers court program would best serve those counties, the county board of each such county may adopt a resolution to the effect that there shall be a single veteran and servicemembers court program serving those counties, and shall provide a copy of the resolution to the Chief Judge of the judicial circuit. Upon receipt of those resolutions, the

Chief Judge may establish or, in the case of an existing veteran and servicemembers court program, reorganize a single program to serve those counties.

(Source: P.A. 99-807, eff. 1-1-18; 100-88, eff. 1-1-18.)

(730 ILCS 167/20)

Sec. 20. Eligibility. Veterans and servicemembers ~~Servicemembers~~ are eligible for veterans ~~Veterans~~ and servicemembers courts ~~Servicemembers Courts~~, provided the following:

(a) ~~A defendant, who is eligible for probation based on the nature of the crime convicted of and in consideration of his or her criminal background, if any, may be admitted into a Veterans and Servicemembers Court program before adjudication only upon the agreement of the defendant and with the approval of the Court.~~ A defendant may be admitted into a veterans ~~Veterans~~ and servicemembers court ~~Servicemembers Court~~ program ~~post adjudication~~ only upon the consent of the defendant and with the approval of the court. A defendant agrees to be admitted when a written consent to participate is provided to the court in open court and the defendant acknowledges understanding of its contents.

(a-5) Each veterans and servicemembers court shall have a target population defined in its written policies and procedures. The policies and procedures shall define that court's eligibility and exclusionary criteria.

(b) A defendant shall be excluded from Veterans and Servicemembers Court program if any of one of the following applies:

(1) The crime is a crime of violence as set forth in paragraph ~~clause~~ (3) of this subsection (b).

(2) The defendant does not demonstrate a willingness to participate in a treatment program.

(3) The defendant has been convicted of a crime of violence within the past 5 ~~10~~ years excluding incarceration time, parole, and periods of mandatory supervised release. As used in this paragraph, "crime of violence" means: ~~, including~~ first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, armed robbery, aggravated arson, arson, aggravated kidnapping and kidnapping, aggravated battery resulting in great bodily harm or permanent disability, aggravated domestic battery resulting in great bodily harm or permanent disability, aggravated criminal sexual abuse by a person in a position of trust or authority over a child, stalking, aggravated stalking, home invasion, aggravated vehicular hijacking, or any offense involving the discharge of a firearm.

(4) The defendant is charged with a violation of subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code in which an

individual is charged with aggravated driving under the influence that resulted in the death of another person or when the violation was a proximate cause of the death, unless, pursuant to subparagraph (G) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code, the court determines that extraordinary circumstances exist and require probation. ~~(Blank).~~

(5) (Blank).

(6) (Blank). ~~The sentence imposed on the defendant, whether the result of a plea or a finding of guilt, renders the defendant ineligible for probation.~~

(c) Notwithstanding subsection (a), the defendant may be admitted into a veterans and servicemembers court program only upon the agreement of the prosecutor if the defendant is charged with a Class 2 or greater felony violation of:

(1) Section 401, 401.1, 405, or 405.2 of the Illinois Controlled Substances Act;

(2) Section 5, 5.1, or 5.2 of the Cannabis Control Act; or

(3) Section 15, 20, 25, 30, 35, 40, 45, 50, 55, 56, or 65 of the Methamphetamine Control and Community Protection Act.

(Source: P.A. 100-426, eff. 1-1-18; 101-652, eff. 7-1-21.)

(730 ILCS 167/25)

Sec. 25. Procedure.

(a) ~~A The Court shall order the defendant to submit to an~~ eligibility screening and clinical needs and an assessment and risk assessment of the defendant shall be performed as required by the court's policies and procedures prior to the defendant's admission into a veteran and servicemembers court. The assessment shall be conducted through the VA, VAC, and/or the IDVA to provide information on the defendant's veteran or servicemember status.

Any risk assessment shall be performed using an assessment tool approved by the Administrative Office of the Illinois Courts and as required by the court's policies and procedures.

(b) ~~A The Court shall order the defendant to submit to an~~ eligibility screening and mental health and substance use disorder ~~drug/alcohol~~ screening and assessment of the defendant shall be performed by the VA, VAC, or by the IDVA, or as otherwise outlined and as required by the court's policies and procedures ~~to provide assessment services for Illinois Courts.~~ The assessment shall include, but is not limited to, assessments of substance use and mental and behavioral health needs. The clinical needs assessment shall be administered by a qualified professional of the VA, VAC, or IDVA, or individuals who meet the Department of Human Services substance use prevention and recovery rules for professional staff under 77 Ill. Adm. Code 2060, or an equivalent standard in any other state where treatment may take place, and used to inform any clinical treatment plans. Clinical treatment plans

shall be developed, in accordance with the Problem-Solving Court Standards and ~~a risks assessment and~~ be based, in part, upon the known availability of treatment resources available to the veterans ~~Veterans~~ and servicemembers court ~~Servicemembers Court~~. ~~The assessment shall also include recommendations for treatment of the conditions which are indicating a need for treatment under the monitoring of the Court and be reflective of a level of risk assessed for the individual seeking admission.~~ An assessment need not be ordered if the court ~~Court~~ finds a valid screening or ~~and/or~~ assessment related to the present charge pending against the defendant has been completed within the previous 60 days.

(c) The judge shall inform the defendant that if the defendant fails to meet the conditions of the veterans ~~Veterans~~ and servicemembers court ~~Servicemembers Court~~ program, eligibility to participate in the program may be revoked and the defendant may be sentenced or the prosecution continued as provided in the Unified Code of Corrections for the crime charged.

(d) The defendant shall execute a written agreement with the court ~~Court~~ as to the defendant's ~~his or her~~ participation in the program and shall agree to all of the terms and conditions of the program, including but not limited to the possibility of sanctions or incarceration for failing to abide or comply with the terms of the program.

(e) In addition to any conditions authorized under the

Pretrial Services Act and Section 5-6-3 of the Unified Code of Corrections, the court ~~Court~~ may order the participant to complete mental health counseling or substance use disorder treatment in an outpatient or residential treatment program and may order the participant to comply with physicians' recommendations regarding medications and all follow-up treatment for any mental health diagnosis made by the provider. Substance use disorder treatment programs must be licensed by the Department of Human Services in accordance with the Department of Human Services substance use prevention and recovery rules, or an equivalent standard in any other state where the treatment may take place, and use evidence-based treatment. When referring participants to mental health treatment programs, the court shall prioritize providers certified as community mental health or behavioral health centers if possible. The court shall consider the least restrictive treatment option when ordering mental health or substance use disorder treatment for participants and the results of clinical and risk assessments in accordance with the Problem-Solving Court Standards. ~~defendant to complete substance abuse treatment in an outpatient, inpatient, residential, or jail-based custodial treatment program, order the defendant to complete mental health counseling in an inpatient or outpatient basis, comply with physicians' recommendation regarding medications and all follow up treatment. This treatment may include but is not limited to~~

~~post-traumatic stress disorder, traumatic brain injury and depression.~~

(e-5) The veterans and servicemembers court shall include a regimen of graduated requirements, including individual and group therapy, substance analysis testing, close monitoring by the court, supervision of progress, restitution, educational or vocational counseling as appropriate, and other requirements necessary to fulfill the veterans and servicemembers court program. Program phases, therapeutic adjustments, incentives, and sanctions, including the use of jail sanctions, shall be administered in accordance with evidence-based practices and the Problem-Solving Court Standards. If the participant needs treatment for an opioid use disorder or dependence, the court may not prohibit the participant from receiving medication-assisted treatment under the care of a physician licensed in this State to practice medicine in all of its branches. Veterans and servicemembers court participants may not be required to refrain from using medication-assisted treatment as a term or condition of successful completion of the veteran and servicemembers court program.

(e-10) Recognizing that individuals struggling with mental health, substance use, and related co-occurring disorders have often experienced trauma, veterans and servicemembers court programs may include specialized service programs specifically designed to address trauma. These specialized services may be

offered to individuals admitted to the veterans and servicemembers court program. Judicial circuits establishing these specialized programs shall partner with advocates, survivors, and service providers in the development of the programs. Trauma-informed services and programming shall be operated in accordance with evidence-based best practices as outlined by the Substance Abuse and Mental Health Service Administration's National Center for Trauma-Informed Care (SAMHSA).

(f) The Court may establish a mentorship program that provides access and support to program participants by peer recovery coaches. Courts shall be responsible to administer the mentorship program with the support of volunteer veterans and local veteran service organizations, including a VAC. Peer recovery coaches shall be trained and certified by the Court prior to being assigned to participants in the program.

(Source: P.A. 99-314, eff. 8-7-15; 99-819, eff. 8-15-16.)

(730 ILCS 167/30)

Sec. 30. Mental health and substance use disorder ~~abuse~~ treatment.

(a) The veterans ~~Veterans~~ and servicemembers court ~~Servicemembers—Court~~ program may maintain a network of substance use disorder ~~abuse~~ treatment programs representing a continuum of graduated substance use disorder ~~abuse~~ treatment options commensurate with the needs of participants

~~defendants~~; these shall include programs with the VA, IDVA, a VAC, the State, ~~of Illinois~~ and community-based programs supported and sanctioned by either or both.

(b) Any substance use disorder ~~abuse~~ treatment program to which participants ~~defendants~~ are referred must hold a valid license from the Department of Human Services Division of Substance Use Prevention and Recovery, use evidence-based treatment, and deliver all services in accordance with 77 Ill. Adm. code 2060, including services available through the VA, IDVA or VAC, or an equivalent standard in any other state where treatment may take place ~~meet all of the rules and governing programs in Parts 2030 and 2060 of Title 77 of the Illinois Administrative Code.~~

(c) The veterans ~~Veterans~~ and servicemembers court ~~Servicemembers Court~~ program may, in its discretion, employ additional services or interventions, as it deems necessary on a case by case basis.

(d) The veterans ~~Veterans~~ and servicemembers court ~~Servicemembers Court~~ program may maintain or collaborate with a network of mental health treatment programs and, if it is a co-occurring mental health and substance use disorders ~~abuse~~ court program, a network of substance use disorder ~~abuse~~ treatment programs representing a continuum of treatment options commensurate with the needs of the participant ~~defendant~~ and available resources including programs with the VA, the IDVA, a VAC, and the State of Illinois. When not using

mental health treatment or services available through the VA, IDVA, or VAC, partnerships with providers certified as community mental health or behavioral health centers shall be prioritized, as possible.

(Source: P.A. 99-819, eff. 8-15-16.)

(730 ILCS 167/35)

Sec. 35. Violation; termination; dismissal from the program ~~discharge~~.

(a) If the court finds from the evidence presented, including, but not limited to, the reports or proffers of proof from the veterans and servicemembers court professionals, that: (1) the participant is not complying with the requirements of the treatment program; or (2) the participant has otherwise violated the terms and conditions of the program, the court may impose reasonable sanctions under the prior written agreement of the participant, including, but not limited to, imprisonment or dismissal of the participant from the program and the court may reinstate criminal proceedings against the participant or proceed under Section 5-6-4 of the Unified Code of Corrections for a violation of probation, conditional discharge, or supervision hearing. ~~If the Court finds from the evidence presented including but not limited to the reports or proffers of proof from the Veterans and Servicemembers Court professionals that:~~

~~(1) the defendant is not performing satisfactorily in~~

~~the assigned program;~~

~~(2) the defendant is not benefitting from education, treatment, or rehabilitation;~~

~~(3) the defendant has engaged in criminal conduct rendering him or her unsuitable for the program; or~~

~~(4) the defendant has otherwise violated the terms and conditions of the program or his or her sentence or is for any reason unable to participate; the Court may impose reasonable sanctions under prior written agreement of the defendant, including but not limited to imprisonment or dismissal of the defendant from the program and the Court may reinstate criminal proceedings against him or her or proceed under Section 5-6-4 of the Unified Code of Corrections for a violation of probation, conditional discharge, or supervision hearing.~~

(a-5) Based on the evidence presented, the court shall determine whether the participant has violated the conditions of the program and whether the participant should be dismissed from the program or whether, pursuant to the court's policies and procedures, some other alternative may be appropriate in the interests of the participant and the public.

(a-10) A participant who is assigned to a substance use disorder treatment program under this Act for an opioid use disorder is not in violation of the terms or conditions of the program on the basis of participation in medication-assisted treatment under the care of a physician licensed in this State

to practice medicine in all of its branches.

(a-15) A participant may voluntarily withdraw from the veterans and servicemembers court program in accordance with the program's policies and procedures. Prior to allowing the participant to withdraw, the judge shall:

(1) ensure that the participant has the right to consult with counsel prior to withdrawal;

(2) determine in open court that the withdrawal is made voluntarily and knowingly; and

(3) admonish the participant in open court as to the consequences, actual or potential, which can result from withdrawal.

Upon withdrawal, the criminal proceedings may be reinstated against the participant or proceedings may be initiated under Section 5-6-4 of the Unified Code of Corrections for a violation of probation, conditional discharge, or supervision hearing.

(a-20) A participant who has not violated the conditions of the program in such a way as to warrant unsuccessful dismissal, but who is unable to complete program requirements to qualify for a successful discharge, may be terminated from the program as a neutral discharge.

(b) Upon successful completion of the terms and conditions of the program, the court ~~Court~~ may dismiss the original charges against the participant ~~defendant~~ or successfully terminate the participant's ~~defendant's~~ sentence or otherwise

discharge the participant ~~him or her~~ from any further proceedings against the participant ~~him or her~~ in the original prosecution.

(c) Upon successful completion of the terms and conditions of the program, any State's Attorney in the county of conviction, a participant, or defense attorney may move to vacate any convictions that are eligible for sealing under the Criminal Identification Act. A participant may immediately file a petition to expunge vacated convictions and the associated underlying records per the Criminal Identification Act. If the State's Attorney moves to vacate a conviction, the State's Attorney may not object to expungement of that conviction or the underlying record.

(d) Veterans and servicemembers court programs may maintain or collaborate with a network of legal aid organizations that specialize in conviction relief to support participants navigating the expungement and sealing process.

(Source: P.A. 96-924, eff. 6-14-10.)

(730 ILCS 167/40 new)

Sec. 40. Education for judges. A judge assigned to preside over a veteran and servicemembers court shall have experience, training, and continuing education in topics including, but not limited to:

(1) criminal law;

(2) behavioral health;

- (3) confidentially;
- (4) ethics;
- (5) evidence-based practices;
- (6) substance use disorders;
- (7) mental illness;
- (8) co-occurring disorders; and
- (9) presiding over various types of problem-solving courts.

(730 ILCS 167/45 new)

Sec. 45. Education seminars for veterans and servicemembers court prosecutors. Subject to appropriation, the Office of the State's Attorneys Appellate Prosecutor shall conduct mandatory education seminars for all prosecutors serving in veterans and servicemembers courts throughout the State to ensure that the problem-solving court maintains fidelity to the problem-solving court model. Topics include, but are not limited to, evidence-based screening, assessment and treatment practices, target population, substance use disorders, mental illness, disability, co-occurring disorders, trauma, confidentiality, criminogenic risks and needs, incentives and sanctions, court processes, limited English proficiency, military culture and language, and team dynamics.

(730 ILCS 167/50 new)

Sec. 50. Education seminars for veteran and servicemembers

court public defenders. Subject to appropriation, the Office of the State Appellate Defender shall conduct mandatory education seminars for all public defenders and assistant public defenders practicing in veterans and servicemembers courts throughout the State to ensure that the problem-solving court maintains fidelity to the problem-solving court model. Topics include, but are not limited to, evidence-based screening, assessment and training practices, target population, substance use disorders, mental illness, disability, co-occurring disorders, trauma, confidentiality, criminogenic risks and needs, incentives and sanctions, court processes, limited English proficiency, military culture and language, and team dynamics.

Section 15. The Mental Health Court Treatment Act is amended by changing Sections 5, 10, 15, 20, 25, 30, and 35 and by adding Sections 41, 45, and 50 as follows:

(730 ILCS 168/5)

Sec. 5. Purposes. The General Assembly recognizes that individuals with diagnosable mental illness may come into contact with the criminal justice system and be charged with felony or misdemeanor offenses ~~a large percentage of criminal defendants have a diagnosable mental illness and that mental illnesses have a dramatic effect on the criminal justice system in the State of Illinois.~~ The General Assembly also

recognizes that mental illness and substance use disorders ~~abuse problems~~ co-occur in a substantial percentage of criminal defendants. There is a critical need for the a criminal justice system to recognize individuals struggling with these issues, provide alternatives to incarceration to address mental illness, and provide appropriate access to treatment and support to such individuals. ~~program that will reduce the number of persons with mental illnesses and with co-occurring mental illness and substance abuse problems in the criminal justice system, reduce recidivism among persons with mental illness and with co-occurring mental illness and substance abuse problems, provide appropriate treatment to persons with mental illnesses and co-occurring mental illness and substance abuse problems and reduce the incidence of crimes committed as a result of mental illnesses or co-occurring mental illness and substance abuse problems.~~ It is the intent of the General Assembly to create specialized mental health courts in accordance with evidence-based practices and Problem-Solving Court Standards for addressing substance use and co-occurring disorders with the necessary flexibility to meet the needs for an array of services and supports among participants in certified mental health court programs ~~problems of criminal defendants with mental illnesses and co-occurring mental illness and substance abuse problems~~ in the State of Illinois.

(Source: P.A. 95-606, eff. 6-1-08.)

(730 ILCS 168/10)

Sec. 10. Definitions. As used in this Act:

"Certification" means the process by which a problem-solving court obtains approval from the Supreme Court to operate in accordance with the Problem-Solving Court Standards.

"Clinical treatment plan" means an evidence-based, comprehensive, and individualized plan that: (i) is developed by a qualified professional in accordance with Department of Human Services substance use prevention and recovery rules under 77 Ill. Adm. Code 2060 or an equivalent standard in any state where treatment may take place; and (ii) defines the scope of treatment services to be delivered by a court treatment provider.

"Combination mental health court program" means a type of problem-solving court that allows an individual to enter a problem-solving court before a plea, conviction, or disposition while also permitting an individual who has admitted guilt, or been found guilty, to enter a problem-solving court as a part of the individual's sentence or disposition.

"Community behavioral health center" means a physical site where behavioral healthcare services are provided in accordance with the Community Behavioral Health Center Infrastructure Act.

"Community mental health center" means an entity:

(1) licensed by the Department of Public Health as a community mental health center in accordance with the conditions of participation for community mental health centers established by the Centers for Medicare and Medicaid Services; and

(2) that provides outpatient services, including specialized outpatient services, for individuals who are chronically mental ill.

"Co-occurring mental health and substance use disorders court program" means a program that includes an individual with co-occurring mental illness and substance use disorder diagnoses and professionals with training and experience in treating individuals with diagnoses of substance use disorder and mental illness.

"Mental health court", "mental health court program", "court", or "program" means a specially designated court, court calendar, or docket facilitating intensive therapeutic treatment to monitor and assist participants with mental illness in making positive lifestyle changes and reducing the rate of recidivism. Mental health court programs are nonadversarial in nature and bring together mental health professionals and local social programs in accordance with the Bureau of Justice Assistance and Council of State Governments Justice Center's Essential Elements of a Mental Health Court and the Problem-Solving Court Standards. Common features of a

mental health court program include, but are not limited to, a designated judge and staff; specialized intake and screening procedures; coordinated treatment procedures administered by a trained, multidisciplinary professional team; close evaluation of participants, including continued assessments and modification of the court requirements and use of sanctions, incentives, and therapeutic adjustments to address behavior; frequent judicial interaction with participants; less formal court process and procedures; voluntary participation; and a low treatment staff-to-client ratio. ~~structured judicial intervention process for mental health treatment of eligible defendants that brings together mental health professionals, local social programs, and intensive judicial monitoring.~~

"Mental health court professional" means a member of the mental health court team, including but not limited to a judge, prosecutor, defense attorney, probation officer, coordinator, or treatment provider, ~~or peer recovery coach.~~

"Peer recovery coach" means a mentor assigned to a defendant during participation in a mental health treatment court program who has been trained by the court, a service provider used by the court for substance use disorder or mental health treatment, a local service provider with an established peer recovery coach or mentor program not otherwise used by the court for treatment, or a Certified Recovery Support Specialist certified by the Illinois Certification Board. "Peer recovery coach" includes

individuals with lived experiences of the issues the problem-solving court seeks to address, including, but not limited to, substance use disorder, mental illness, and co-occurring disorders or involvement with the criminal justice system. "Peer recovery coach" includes individuals required to guide and mentor the participant to successfully complete assigned requirements and to facilitate participants' independence for continued success once the supports of the court are no longer available to them.

"Post-adjudicatory mental health court program" means a program that allows an individual who has admitted guilt or has been found guilty, with the defendant's consent, and the approval of the court, to enter a mental health court program as part of the defendant's sentence or disposition.

"Pre-adjudicatory mental health court program" means a program that allows the defendant, with the defendant's consent and the approval of the court, to enter the mental health court program before plea, conviction, or disposition and requires successful completion of the mental health court program as part of the agreement.

"Problem-Solving Court Standards" means the statewide standards adopted by the Supreme Court that set forth the minimum requirements for the planning, establishment, certification, operation, and evaluation of all problem-solving courts in this State.

"Validated clinical assessment" means a validated

assessment tool administered by a qualified clinician to determine the treatment needs of participants. "Validated clinical assessment" includes assessment tools required by public or private insurance.

~~"Pre adjudicatory mental health court program" means a program that allows the defendant, with the consent of the prosecution, to expedite the defendant's criminal case before conviction or before filing of a criminal case and requires successful completion of the mental health court program as part of the agreement.~~

~~"Post adjudicatory mental health court program" means a program in which the defendant has admitted guilt or has been found guilty and agrees, along with the prosecution, to enter a mental health court program as part of the defendant's sentence.~~

~~"Combination mental health court program" means a mental health court program that includes a pre adjudicatory mental health court program and a post adjudicatory mental health court program.~~

~~"Co-occurring mental health and substance abuse court program" means a program that includes persons with co-occurring mental illness and substance abuse problems. Such programs shall include professionals with training and experience in treating persons with substance abuse problems and mental illness.~~

(Source: P.A. 97-946, eff. 8-13-12.)

(730 ILCS 168/15)

Sec. 15. Authorization.

(a) The Chief Judge of each judicial circuit may establish a mental health court program, in compliance with the Problem-Solving Court Standards. At the discretion of the Chief Judge, the mental health court program may be operated in one or more counties of the circuit and allow defendants from all counties within the circuit to participate. Mental health court programs must be certified by the Supreme Court including the format under which it operates under this Act.

(b) Whenever the county boards of 2 or more counties within the same judicial circuit determine that a single mental health court program would best serve those counties, the county board of each such county may adopt a resolution to the effect that there shall be a single mental health court program serving those counties, and shall provide a copy of the resolution to the Chief Judge of the judicial circuit. Upon receipt of such a resolution, the Chief Judge may establish or, in the case of an existing mental health court program, reorganize a single mental health court program to serve these counties.

(Source: P.A. 95-606, eff. 6-1-08.)

(730 ILCS 168/20)

Sec. 20. Eligibility.

(a) A defendant, ~~who is eligible for probation based on the nature of the crime convicted of and in consideration of his or her criminal background, if any,~~ may be admitted into a mental health court program only upon the consent agreement of the defendant and with the approval of the court. A defendant agrees to be admitted when a written consent to participate is provided to the court in open court and the defendant acknowledges understanding its contents.

(a-5) Each mental health court shall have a target population defined in its written policies and procedures. The policies and procedures shall define that court's eligibility and exclusionary criteria.

(b) A defendant shall be excluded from a mental health court program if any one of the following applies:

(1) The crime is a crime of violence as set forth in paragraph ~~clause~~ (3) of this subsection (b).

(2) The defendant does not demonstrate a willingness to participate in a treatment program.

(3) The defendant has been convicted of a crime of violence within the past 5 ~~10~~ years excluding incarceration time, parole, and periods of mandatory supervised release. As used in this paragraph (3), "crime of violence" means: first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, armed robbery, aggravated arson, arson,

aggravated kidnapping, kidnapping, aggravated battery resulting in great bodily harm or permanent disability, aggravated domestic battery resulting in great bodily harm or permanent disability, aggravated criminal sexual abuse by a person in a position of trust or authority over a child, stalking, aggravated stalking, home invasion, aggravated vehicular hijacking, or any offense involving the discharge of a firearm.

(4) The defendant is charged with a violation of subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code in which an individual is charged with aggravated driving under the influence that resulted in the death of another person or when the violation was a proximate cause of the death, unless, pursuant to subparagraph (G) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code, the court determines that extraordinary circumstances exist and require probation. ~~(Blank).~~

(5) (Blank).

(6) (Blank). ~~The sentence imposed on the defendant, whether the result of a plea or a finding of guilt, renders the defendant ineligible for probation.~~

(c) Notwithstanding subsection (a), the defendant may be admitted into a mental health court program only upon the agreement of the prosecutor if the defendant is charged with a Class 2 or greater felony violation of:

(1) Section 401, 401.1, 405, or 405.2 of the Illinois Controlled Substances Act;

(2) Section 5, 5.1, or 5.2 of the Cannabis Control Act; or

(3) Section 15, 20, 25, 30, 35, 40, 45, 50, 55, 56, or 65 of the Methamphetamine Control and Community Protection Act.

~~A defendant charged with prostitution under Section 11-14 of the Criminal Code of 2012 may be admitted into a mental health court program, if available in the jurisdiction and provided that the requirements in subsections (a) and (b) are satisfied. Mental health court programs may include specialized service programs specifically designed to address the trauma associated with prostitution and human trafficking, and may offer those specialized services to defendants admitted to the mental health court program. Judicial circuits establishing these specialized programs shall partner with prostitution and human trafficking advocates, survivors, and service providers in the development of the programs.~~

(Source: P.A. 100-426, eff. 1-1-18; 101-652, eff. 7-1-21.)

(730 ILCS 168/25)

Sec. 25. Procedure.

(a) ~~An~~ The court shall require an eligibility screening and an assessment of the defendant shall be performed as required by the court's policies and procedures. The

assessment shall include a validated clinical assessment. The clinical assessment shall include, but is not limited to, assessments of substance use and mental and behavioral health needs. The clinical assessment shall be administered by a qualified professional and used to inform any clinical treatment plans. Clinical treatment plans shall be developed, in part, upon the known availability of treatment resources available. Assessments for substance use disorder shall be conducted in accordance with the Department of Human Services substance use prevention and recovery rules contained in 77 Ill. Adm. Code 2060 or an equivalent standard in any other state where treatment may take place, and conducted by individuals who meet the Department of Human Services substance use prevention and recovery rules for professional staff also contained within that Code, or an equivalent standard in any other state where treatment may take place. The assessments shall be used to inform any clinical treatment plans. Clinical treatment plans shall be developed in accordance with Problem-Solving Court Standards and, in part, upon the known availability of treatment resources. An assessment need not be ordered if the court finds a valid assessment related to the present charge pending against the defendant has been completed within the previous 60 days.

(b) The judge shall inform the defendant that if the defendant fails to meet the conditions ~~requirements~~ of the mental health court program, eligibility to participate in the

program may be revoked and the defendant may be sentenced or the prosecution continued, as provided in the Unified Code of Corrections, for the crime charged.

(c) The defendant shall execute a written agreement as to his or her participation in the program and shall agree to all of the terms and conditions of the program, including but not limited to the possibility of sanctions or incarceration for failing to abide or comply with the terms of the program.

(d) In addition to any conditions authorized under the Pretrial Services Act and Section 5-6-3 of the Unified Code of Corrections, the court may order the participant to complete mental health counseling or substance use disorder treatment in an outpatient or residential treatment program and may order the participant to comply with physicians' recommendations regarding medications and all follow-up treatment for any mental health diagnosis made by the provider. Substance use disorder treatment programs must be licensed by the Department of Human Services in accordance with the Department of Human Services substance use prevention and recovery rules, or an equivalent standard in any other state where the treatment may take place, and use evidence-based treatment. When referring participants to mental health treatment programs, the court shall prioritize providers certified as community mental health or behavioral health centers if possible. The court shall consider the least restrictive treatment option when ordering mental health or

substance use disorder treatment for participants and the results of clinical and risk assessments in accordance with the Problem-Solving Court Standards. ~~defendant to complete mental health or substance abuse treatment in an outpatient, inpatient, residential, or jail based custodial treatment program. Any period of time a defendant shall serve in a jail based treatment program may not be reduced by the accumulation of good time or other credits and may be for a period of up to 120 days.~~

(e) The mental health court program shall ~~may~~ include a regimen of graduated requirements, including ~~and rewards and sanctions, including but not limited to:~~ fines, fees, costs, restitution, ~~incarceration of up to 180 days,~~ individual and group therapy, medication, substance ~~drug~~ analysis testing, close monitoring by the court, ~~and~~ supervision of progress, restitution, educational or vocational counseling as appropriate, and other requirements necessary to fulfill the mental health court program. Program phases, therapeutic adjustments, incentives, and sanctions, including the use of jail sanctions, shall be administered in accordance with evidence-based practices and the Problem-Solving Court Standards. A participant's failure to pay program fines or fees shall not prevent the participant from advancing phases or successfully completing the program. If the participant needs treatment for an opioid use disorder or dependence, the court may not prohibit the participant from receiving

medication-assisted treatment under the care of a physician licensed in this State to practice medicine in all of its branches. Mental health court participants may not be required to refrain from using medication-assisted treatment as a term or condition of successful completion of the mental health court program.

(f) The mental health court program may maintain or collaborate with a network of mental health treatment programs and, if it is a co-occurring mental health and substance use disorders court program, a network of substance use disorder treatment programs representing a continuum of treatment options commensurate with the needs of the participant and available resources, including programs of this State.

(g) Recognizing that individuals struggling with mental health, addiction, and related co-occurring disorders have often experienced trauma, mental health court programs may include specialized service programs specifically designed to address trauma. These specialized services may be offered to individuals admitted to the mental health court program. Judicial circuits establishing these specialized programs shall partner with advocates, survivors, and service providers in the development of the programs. Trauma-informed services and programming shall be operated in accordance with evidence-based best practices as outlined by the Substance Abuse and Mental Health Service Administration's National Center for Trauma-Informed Care.

(h) The court may establish a mentorship program that provides access and support to program participants by peer recovery coaches. Courts shall be responsible to administer the mentorship program with the support of mentors and local mental health and substance use disorder treatment organizations.

(Source: P.A. 95-606, eff. 6-1-08.)

(730 ILCS 168/30)

Sec. 30. Mental health and substance use disorder ~~abuse~~ treatment.

(a) The mental health court program may maintain or collaborate with a network of mental health treatment programs and, if it is a co-occurring mental health and substance use disorders ~~abuse~~ court program, a network of substance use disorder ~~abuse~~ treatment programs representing a continuum of treatment options commensurate with the needs of participants ~~defendants~~ and available resources.

(b) Any substance use disorder ~~abuse~~ treatment program to which participants ~~defendants~~ are referred must hold a valid license from the Department of Human Services Division of Substance Use Prevention and Recovery, use evidence-based treatment, and deliver all services in accordance with 77 Ill. Adm. Code 2060, including services available through the United States Department of Veterans Affairs, the Illinois Department of Veterans Affairs, or the Veterans Assistance

Commission, or an equivalent standard in any other state where treatment may take place ~~meet all of the rules and governing programs in Parts 2030 and 2060 of Title 77 of the Illinois Administrative Code.~~

(c) The mental health court program may, at its discretion, employ additional services or interventions, as it deems necessary on a case by case basis.

(Source: P.A. 95-606, eff. 6-1-08.)

(730 ILCS 168/35)

Sec. 35. Violation; termination; dismissal from program discharge.

(a) If the court finds from the evidence presented, including, but not limited to, the reports or proffers of proof from the mental health court professionals, that: (1) the participant is not complying with the requirements of the treatment program; or (2) the participant has otherwise violated the terms and conditions of the program, the court may impose reasonable sanctions under the prior written agreement of the participant, including, but not limited to, imprisonment or dismissal of the defendant from the program and the court may reinstate criminal proceedings against the participant or proceed under Section 5-6-4 of the Unified Code of Corrections for a violation of probation, conditional discharge, or supervision hearing. ~~If the court finds from the evidence presented, including but not limited to the reports~~

~~or proffers of proof from the mental health court professionals that:~~

~~(1) the defendant is not performing satisfactorily in the assigned program;~~

~~(2) the defendant is not benefiting from education, treatment, or rehabilitation;~~

~~(3) the defendant has engaged in criminal conduct rendering him or her unsuitable for the program; or~~

~~(4) the defendant has otherwise violated the terms and conditions of the program or his or her sentence or is for any reason unable to participate;~~

~~the court may impose reasonable sanctions under prior written agreement of the defendant, including but not limited to imprisonment or dismissal of the defendant from the program; and the court may reinstate criminal proceedings against him or her or proceed under Section 5-6-4 of the Unified Code of Corrections for a violation of probation, conditional discharge, or supervision hearing.~~

(a-5) Based on the evidence presented, the court shall determine whether the participant has violated the conditions of the program and whether the participant should be dismissed from the program or whether, pursuant to the court's policies and procedures, some other alternative may be appropriate in the interests of the participant and the public.

(a-10) A participant may voluntarily withdraw from the mental health court program in accordance with the mental

health court program's policies and procedures. Prior to allowing the participant to withdraw, the judge shall:

(1) ensure that the participant has the right to consult with counsel prior to withdrawal;

(2) determine in open court that the withdrawal is made voluntarily and knowingly; and

(3) admonish the participant in open court, as to the consequences, actual or potential, which can result from withdrawal.

Upon withdrawal, the criminal proceedings may be reinstated against the participant or proceedings may be initiated under Section 5-6-4 of the Unified Code of Corrections for a violation of probation, conditional discharge, or supervision hearing.

(a-15) No participant ~~defendant~~ may be dismissed from the program unless, prior to such dismissal, the participant ~~defendant~~ is informed in writing: (i) of the reason or reasons for the dismissal; (ii) the evidentiary basis supporting the reason or reasons for the dismissal; (iii) that the participant ~~defendant~~ has a right to a hearing at which he or she may present evidence supporting his or her continuation in the program. ~~Based upon the evidence presented, the court shall determine whether the defendant has violated the conditions of the program and whether the defendant should be dismissed from the program or whether some other alternative may be appropriate in the interests of the defendant and the~~

~~public.~~

(a-20) A participant who has not violated the conditions of the program in such a way as to warrant unsuccessful dismissal, but who is unable to complete program requirements to qualify for a successful discharge, may be terminated from the program as a neutral discharge.

(b) Upon successful completion of the terms and conditions of the program, the court may dismiss the original charges against the participant ~~defendant~~ or successfully terminate the participant's ~~defendant's~~ sentence or otherwise discharge the participant ~~him or her~~ from the program or from any further proceedings against the participant ~~him or her~~ in the original prosecution.

(c) Upon successful completion of the terms and conditions of the program, any State's Attorney in the county of conviction, a participant, or defense attorney may move to vacate any convictions that are eligible for sealing under the Criminal Identification Act. A participant may immediately file a petition to expunge vacated convictions and the associated underlying records per the Criminal Identification Act. If the State's Attorney moves to vacate a conviction, the State's Attorney may not object to expungement of that conviction or the underlying record.

(d) The mental health court program may maintain or collaborate with a network of legal aid organizations that specialize in conviction relief to support participants

navigating the expungement and sealing process.

(Source: P.A. 95-606, eff. 6-1-08.)

(730 ILCS 168/41 new)

Sec. 41. Education seminars for judges. A judge assigned to preside over a mental health court shall have experience, training, and continuing education in topics including, but not limited to:

(1) criminal law;

(2) behavioral health;

(3) confidently;

(4) ethics;

(5) evidence-based practices;

(6) substance use disorders;

(7) mental illness;

(8) co-occurring disorders; and

(9) presiding over various types of problem-solving courts.

(730 ILCS 168/45 new)

Sec. 45. Education seminars for mental health court prosecutors. Subject to appropriation, the Office of the State's Attorneys Appellate Prosecutor shall conduct mandatory education seminars for all prosecutors serving in mental health courts throughout the State to ensure that the problem-solving court maintains fidelity to the

problem-solving court model. Topics include, but are not limited to, evidence-based screening, assessment and treatment practices, target population, substance use disorders, mental illness, disability, co-occurring disorders, trauma, confidentiality, criminogenic risks and needs, incentives and sanctions, court processes, limited English proficiency, and team dynamics.

(730 ILCS 168/50 new)

Sec. 50. Education seminars for mental health court public defenders. Subject to appropriation, the Office of the State Appellate Defender shall conduct mandatory education seminars for all public defenders and assistant public defenders practicing in mental health courts throughout the State to ensure that the problem-solving court maintains fidelity to the problem-solving court model. Topics include, but are not limited to, evidence-based screening, assessment and treatment practices, target population, substance use disorders, mental illness, disability, co-occurring disorders, trauma, confidentiality, criminogenic risks and needs, incentives and sanctions, court processes, limited English proficiency, and team dynamics.

(730 ILCS 168/40 rep.)

Section 20. The Mental Health Court Treatment Act is amended by repealing Section 40.

Public Act 102-1041

SB2565 Enrolled

LRB102 16553 KMF 21949 b

Section 99. Effective date. This Act takes effect upon becoming law.